a presumption that the reduced Ohio rates were unlawful and cast on the appellants the burden of overcoming it by a preponderance of proof impossible of production. This complaint is founded upon a portion of the opening sentence of the report and two sentences near its close and by an analysis of the remainder of the report intended to show that the Commission gave too little weight to appellants' evidence and too much to that in opposition. On examination of the record, the report and the findings, we are satisfied there is no adequate foundation for the contention. The excerpts from the report which are cited, when read in their context, indicate only that the Commission intended fairly to inquire with respect to the lawfulness of the attacked rates and, after evaluating all the proofs on both sides, concluded that the preponderance was heavily against the appellants. The hearing was fair.

2. Untenable, also, is the position that there was no sufficient evidence to support the finding of preference and prejudice. We agree with the District Court that the proof of discrimination against interstate shippers and localities was convincing. Upon the issue whether the preference and prejudice was undue,—that is, whether the interstate rates were reasonable, whether the attacked intrastate rates were reasonable maxima, and what the proper relationship between the two scales should be,—a large amount of evidence was taken and considered in detail. There was ample support for each of the findings. In effect, we are asked to reexamine the evidence, appraise it, and hold the Commission erred in its judgment as to the facts. We have often said that we have no such power.

3. The claim is that the Commission exceeded its authority in requiring state rates to be raised without having found or made reasonable all substantially competitive interstate rates. This contention requires the statement of certain matters in addition to those above recited. As we have seen, the coal which reaches northeastern Ohio comes from mines within and without the State. Those within Ohio are grouped in eight origin districts lying in the eastern and southern portions of the State. Those without Ohio lie in two rough arcs known as the inner and outer crescents. The inner includes the Pittsburgh district in western Pennsylvania contiguous to the Ohio River, the Connellsville immediately to the south, the Fairmont to the south of that, and eleven others to the

southwestward through northern West Virginia, eastern Kentucky and Tennessee. The outer crescent is composed of districts extending in a wider arc eastward and southward of the inner crescent from the Altoona in Pennsylvania at the northeastern extremity to the Rathburn in southern Tennessee at the southwestern extremity.[2]

The mines in each district enjoy the same rate to a single destination, but the rates from the more remote districts are higher than those from the Ohio districts and from the more northerly districts in the inner crescent. In the proceedings before the Commission the only attack upon the reasonableness of interstate rates was leveled at those from the Pittsburgh, Connellsville and Fairmont regions. The complainants did not plead or offer proof that the rates from the more southerly districts in the inner crescent, or from those in the outer crescent, were unreasonably high. Nor did the appellants, who were respondents before the Commission, assert or attempt to prove that they were too low. These rates were put in evidence by the appellants, but only for the purpose of showing, by comparison of the ton-mile earnings under them, that the reduced Ohio rates were reasonable maxima.

The argument is that by confining its investigation of the reasonableness of the interstate rates to those from the Freeport, Pittsburgh, Connellsville and Fairmont origins and neglecting to investigate the reasonableness of those from the inner and outer crescents generally, the Commission exposed intrastate commerce to unjust discrimination in relation to competitive interstate commerce originating in the inner and outer crescents. Support for the argument is drawn from the assertion first, that the existing interstate rates from the crescents are lower than those from the Ohio mines, and secondly, that the entire crescent adjustment has always been made and regulated so as to represent a reasonable average level, and therefore any consideration of the Ohio rates should rest upon a comparison of the average reasonableness of the entire interstate adjustment.

The appellants fail to call attention to anything in the record which supports either of these statements, and we have been un-

[2] A map showing the area and location of the Ohio districts and most of those in the inner and outer crescents will be found in 46 I. C. C. opposite page 158.

able to find anything of the sort. The fact is that the rates from the southern inner and from the outer crescent territory are much higher than those from Ohio mines, and considerably in excess of those from the Freeport, Pittsburgh, Connellsville and Fairmont districts. It is undoubtedly true that the former show lower earnings per ton-mile than the latter. This, however, is in entire accord with the theory of rate making, namely, that the longer haul may be expected to yield a lower ton-mile return. But entirely apart from this, the record not only does not disclose that the entire adjustment of interstate rates from the Appalachian district is upon an average basis, but shows the contrary. Coal moves from Ohio origins and from both the crescents to destinations in territory other than the destination area here involved. Rates upon these movements have been the subject of repeated investigations by the Commission. Examination of the record and of the various proceedings with respect to these interstate rate adjustments discloses that there are four major adjustments on northwestward-bound coal from Ohio and the crescents. One is the lake cargo adjustment, applicable on coal moving to lower Lake Erie ports for transshipment by water. The rate from any origin district is the same to all ports to which rates are published, but there are differentials in favor of Ohio origins and against inner and outer crescent districts.[3] A second embraces rates to northwestern Ohio, northeastern Indiana, and the southern peninsula of Michigan. The third is to territory west of that just mentioned, in which Chicago is a typical destination point. To the destination territory covered by the last mentioned areas the adjustments are similar, though the differentials from various points of origin are not the same. Five of the Ohio districts—No. 8, Cambridge, Hocking, Pomeroy, and Jackson—have the same rate to any given destination; the other Ohio districts take differentials under the rates from the former. All inner crescent districts have the same rate to a given destination. It is 50¢ over the Hocking rate to a destination in the first mentioned territory, and 35¢ over the Hocking rate to Chicago. The outer crescent has differentially higher rates than those applicable to the inner. The base rate for these two adjustments is the rate from Hocking to Toledo.[4]

[3]See *Lake Cargo Coal Cases*, 1930, 181 I. C. C. 37.

[4]Compare *Bituminous Coal to C. F. A. Territory*, 46 I. C. C. 66; *Ohio-Michigan Coal Cases*, 80 I. C. C. 663.

The fourth adjustment is that to northeastern Ohio. It differs from the three previously mentioned. On shipments from Crooksville, Pomeroy and Hocking in Ohio, and from Kanawha and other southern inner crescent districts, northeastern Ohio prior to August 1, 1932, was included in the Toledo group, Cleveland taking the same rate as Toledo from those Ohio districts, and a rate 50¢ higher from the named inner crescent districts. On the other hand, from Middle, Massillon, No. 8 and Cambridge in Ohio, and from Freeport, Pittsburgh, Connellsville and Fairmont in the northern part of the inner crescent, the adjustment was quite distinct. The base for these rates was not the Hocking-Toledo rate, but the Pittsburgh-Youngstown, or Pittsburgh-Cleveland rate. The rate from Ohio district No. 8 to Cleveland was 10¢ under the Pittsburgh-Cleveland rate. The rate from Connellsville is 9¢, and from Fairmont 15¢, over the Pittsburgh-Cleveland rate. The more southerly Ohio districts have always had a rate differentially higher than No. 8. Thus it appears that the adjustment from the crescent districts has not been, as appellant asserts, based on an average principle or average rates of all origin territory shipping coal to northeastern Ohio.

The appellant's argument, then, comes to this: That if a commodity is shipped in large quantities in interstate commerce from certain districts without Ohio to a destination in that state, and if it happens that the commodity also reaches the same destination from wholly different regions whose rates have been built upon a different key rate, the Commission cannot abate a discrimination between the first named group of rates, found to be reasonable, and the intrastate rates, without first finding that the rate from every other region to the same destination in Ohio is reasonable. To state the proposition is to answer it. The Commission has found the interstate rates from the Freeport, Pittsburgh, Connellsville and Fairmont districts to northeastern Ohio destinations are reasonable. It cannot remove a preference and prejudice due to the reduction of the Ohio intrastate rate, so the argument runs, unless it finds also that the rate from a district in eastern Tennessee, close to the Alabama border, to the same destination, is also reasonable. Where rates are uniform from a group of origins to a given destination it is necessary for the Commission to find that the rates from the group as a whole are reasonable, before it can raise the ~~interstate~~ intrastate rates. Compare *Georgia Public Service Comm.* v. *United States*, 283 U. S. 765; *State Corporation*

Commission v. *Aberdeen & R. R. R. Co.*, 136 I. C. C. 173. But it by no means follows that that body, before it can remove discrimination against the district of origin whose rates are under consideration, must find or make reasonable rates adjusted to a different base rate and applying from districts lying in comparatively distant areas.

The Commission has found that the interstate rates from four districts of origin are reasonable. It has found that Ohio intrastate rates, the transportation conditions being similar, are, distance considered, out of relation to these interstate rates, so as to create undue preference and prejudice. These findings, supported by evidence, fully justified the order with respect to the intrastate rates under Section 13 of the Act. Compare *Louisiana Commission* v. *Texas & N. O. R. Co.*, 284 U. S. 125.

No. 868, Judgment affirmed.
No. 886, Appeal dismissed.

A true copy.

Test:

Clerk, Supreme Court, U. S.